

Senate File 453 - Introduced

SENATE FILE 453
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SF 75)

A BILL FOR

1 An Act relating to the disclosure of mental health information
2 to law enforcement professionals.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 228.1, Code 2017, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3A. "*Law enforcement professional*" means
4 a law enforcement officer as defined in section 80B.3, county
5 attorney as defined in section 331.101, probation or parole
6 officer, or jailer.

7 Sec. 2. NEW SECTION. **228.7A Disclosures to law enforcement**
8 **professionals.**

9 1. Mental health information relating to an individual
10 shall be disclosed by a mental health professional, at the
11 minimum consistent with applicable laws and standards of
12 ethical conduct, to a law enforcement professional if all of
13 the following apply:

14 a. The disclosure is made in good faith.

15 b. The disclosure is necessary to prevent or lessen a
16 serious and imminent threat to the health or safety of the
17 individual or to a clearly identifiable victim or victims.

18 c. The individual has the apparent intent and ability to
19 carry out the threat.

20 2. A mental health professional shall not be held criminally
21 or civilly liable for failure to disclose mental health
22 information relating to an individual to a law enforcement
23 professional except in circumstances where the individual has
24 communicated to the mental health professional an imminent
25 threat of physical violence against the individual's self or
26 against a clearly identifiable victim or victims.

27 3. A mental health professional discharges the
28 professional's duty to disclose pursuant to subsection 1 by
29 making reasonable efforts to communicate the threat to a law
30 enforcement professional.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill relates to the disclosure of mental health
35 information to law enforcement professionals.

1 Under Code chapter 228, a mental health professional, data
2 collector, or employee or agent thereof, is prohibited from
3 disclosing or allowing the disclosure of an individual's
4 mental health information without the individual's consent or
5 written authorization. However, disclosure of such mental
6 health information without the individual's consent or written
7 authorization is allowed under certain circumstances, including
8 for certain administrative disclosures to other mental health
9 providers for administrative and professional services to
10 the individual and to meet certain compulsory disclosure
11 requirements pursuant to state or federal law. In addition,
12 the disclosure of certain limited mental health information is
13 allowed to authorized family members without the individual's
14 consent or written authorization in some circumstances.

15 The bill provides that a mental health professional shall
16 disclose mental health information, at the minimum consistent
17 with applicable laws and standards of ethical conduct, relating
18 to an individual without the individual's consent or written
19 permission to a law enforcement professional if the disclosure
20 is made in good faith, is necessary to prevent or lessen a
21 serious and imminent threat to the health or safety of the
22 individual or to a clearly identifiable victim or victims,
23 and the individual has the apparent intent and ability to
24 carry out the threat. The bill provides that a mental health
25 professional shall not be held criminally or civilly liable
26 for failure to disclose mental health information relating
27 to an individual to a law enforcement professional except in
28 circumstances where the individual has communicated to the
29 mental health professional an imminent threat of physical
30 violence against the individual's self or against a clearly
31 identifiable victim or victims. The bill provides that a
32 mental health professional discharges the professional's duty
33 to disclose under the bill by making reasonable efforts to
34 communicate the threat to a law enforcement professional.

35 The bill defines "law enforcement professional" to mean

1 a law enforcement officer as defined in Code section 80B.3
2 (an officer appointed by the director of the department of
3 natural resources, a member of the police force or other
4 agency or department of the state, county, city, or tribal
5 government regularly employed as such and who is responsible
6 for the prevention and detection of crime and the enforcement
7 of the criminal laws of this state and all individuals, as
8 determined by the council, who by the nature of their duties
9 may be required to perform the duties of a peace officer),
10 county attorney as defined in Code section 331.101 (the
11 county attorney, a deputy county attorney or an assistant
12 county attorney designated by the county attorney), probation
13 or parole officer, or jailer. "Mental health information"
14 is defined in Code section 228.1 to mean oral, written,
15 or recorded information which indicates the identity of an
16 individual receiving professional services and which relates to
17 the diagnosis, course, or treatment of the individual's mental
18 or emotional condition.